

Remarks:

In the Office Action mailed on March 16, 2010, the Examiner rejected claims 1 – 23 and 25 – 41. Applicants amend claims 11-13, 40, and 41 herein. Claim 24 has previously been cancelled. Claims 1-23 and 25-41 are pending in the application.

Applicants amend Claims 11, 12, 13, 40, and 41 to clarify the issues for appeal. Claim 13 has been amended as the Examiner suggests. Claims 11, 12, 40, and 41 have been amended to include the limitation “in response to determining that the writing operation to the active physical area requires writing a 0 into a location occupied by a 1 in the physical area, designating an unwritten physical area in the mirror area as the active” (Claim 40, similar in Claims 11, 12, and 41). This limitation is supported by the specification, at least, at Page 7, Lines 7 – 11. Accordingly no new matter has been added.

The Claims

35 USC 101

Claims 13, 23-31, 38-39 and 41 were rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter.

The Examiner asserted that “Claim 13, as claimed, is merely drawn to non-statutory descriptive material since the claim is of a ‘computer readable storage medium’.” Office Action, Page 2, Lines 10-11. Claims 23-31, 38-39, and 41 were rejected as inheriting the alleged defect.

Applicants have amended Claim 13 to direct the computer readable storage medium to a non-transient computer readable storage medium as suggested by the Examiner to avoid any claims to non-statutory media such as propagated signals or carrier waves. As such, Claim 13 is directed to a particular apparatus (the computer readable storage medium) and is therefore directed to statutory subject matter.

Accordingly, Applicants respectfully request withdrawal of the rejection under 35 USC 101 and the allowance of Claims 13, 23, 25-31, 38-39 and 41.

35 USC 112, first and second paragraph

Claims 11, 12, 40 and 41 were rejected under 35 USC 112, first and second paragraphs for essentially the same reason, namely, the Examiner objected to the wording “cannot be achieved by not writing to the active physical area or by performing bit programming operations.” *E.g.*, Office Action, Page 3, Lines 4 – 6. What Applicant is getting at is that when writing to an area of a flash memory, the writing operation begins with a wholesale erasure of the entire area, followed by successive writes of logic high (“1”) to those bit-locations requiring a 1. Any writes of 0s to bit locations holding a 1 can only be achieved by erasing the entire memory area. Thus, if a byte 1010 1010 is to be written into a particular location, only the 1st, 3rd, 5th, and 7th bit are written. Now, if following that write operation another write to the same location occurs that attempts to write the byte 1010 1111, that write operation can also be performed because only logic low is changed to logic high (bits 6 and 8). However, if an attempt was made to write 1010 0000, that would not be possible to achieve by bit operations because bits 5 and 7 would require changing from logic high to logic low, thus requiring erasure of the entire memory area.

Applicants have amended Claims 11, 12, 40 and 41 to more clearly recite the subject matter of the invention. As amended these claims recite the limitation “in response to determining that the writing operation to the active physical area requires writing a 0 into a location occupied by a 1 in the physical area, designating an unwritten physical area in the mirror area as the active.” (Claim 40, similar in claims 11, 12, and 41). As amended, the claims have been corrected for the defects noted by the Examiner in regard to the 112 first and second paragraph rejections. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 USC 112, second paragraph, and the allowance of Claims 11, 12, 40, and 41.

35 USC 102 and 103

Applicants have submitted the above amended the claims to clarify the issues for appeal, in particular, to remove the 35 USC 101 and 35 USC 112 issues from

appeal. However, the rejections under 35 USC 102 and 103 will be appealed. Accordingly, Applicants defer addressing these rejections for the appeal.

CONCLUSION

It is submitted that all of the claims now in the application are in good condition for appeal. Applicants respectfully request entry of the amendments to the claims and reconsideration of the rejections under 35 USC 101 and 112. If the Examiner believes that the prosecution of the application would be facilitated by a telephonic interview, Applicants invite the Examiner to contact the undersigned at the number given below.

Applicants respectfully request that a timely Notice of Allowance be issued in this application.

Respectfully submitted,

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